

**ORIGINAL**

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## UNITED STATES DISTRICT COURT

## DISTRICT OF OREGON

**CV '11 - 1374 AC**

10                   **Case No.**  
 11                   **LUIZ DIAZ-PRADO**,  
 12                   Plaintiff,  
 13                   **v.**  
 14                   **YAMI TERIYAKI AND SUSHI ROLL**,  
 15                   Defendant.  
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**PRELIMINARY STATEMENT**

1. Luiz Diaz-Prado ("Plaintiff") brings this action against Yami Teriyaki and Sushi roll ("Defendant") under the federal Fair Labor Standards Act ("FLSA"), 29 U.S.C. § 201 *et seq.*, for unpaid wages. Plaintiff seeks minimum wages due to him under 29 U.S.C. §§ 206, 207, 216(b), and liquidated damages for failure to pay wages under 29 U.S.C. § 216(b).

**JURISDICTION**

2. Jurisdiction for minimum wage claims exists under the FLSA, 29 U.S.C. § 216(b). Jurisdiction also exists under 28 U.S.C. § 1337 for claims arising under a federal statute regulating commerce.

COMPLAINT - 1

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## PARTIES

3. Plaintiff was employed by Yami Teriyaki and Sushi Roll.
4. Plaintiff, Luiz Diaz-Prado, is a resident of Oregon.
5. Defendant, Yami Teriyaki and Sushi Roll is a Business in the State of Oregon.

## FACTS

6. Defendant is a business in Dallas Oregon.
7. On or about March 22, 2010, defendant hired plaintiff to work in the kitchen as an assistant to the cook and dishwasher.
8. Defendant hired plaintiff at the rate of \$8.40 per hour or minimum wage in the State of Oregon.
9. Plaintiff work the hours of 10:30 a.m to 8:30 p.m. Monday to Saturday, six days a week for a total of 60 hours per week. Plaintiff was paid \$812.57, Bi-weekly.
10. Plaintiff wages as calculated are  $\$812.57/2 = 406.28$  per week. This is an hourly rate of 6.77 per hour. The Federal minimum wage is \$7.25 per hour and time and a half for hour worked above 40 hours in a work week.
11. Defendant has also failed to pay the minimum wage of \$8.40 per hour as required by Oregon Law.
12. Plaintiff has made a demand for the unpaid wages.

**CLAIMS FOR RELIEF**

**(First Claim - Violation of FLSA)**

13. Plaintiff realleges paragraphs 1-12.
14. Under 29 U.S.C. § 206, Defendant is required to pay Plaintiff the federal minimum wage.

COMPLAINT - 2

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1 15. Under 29 U.S.C. § 207, Defendant is required to pay Plaintiff time  
2 and a half for time worked in excess of forty hours per week.

3 16. Under 29 U.S.C. § 216(b), Defendant owes Plaintiff unpaid minimum  
4 wage, and an amount equal to the unpaid wages as liquidated damages.

5 17. Plaintiff is entitled to costs and reasonable attorney fees, in an  
6 amount to be determined at trial, pursuant to 29 U.S.C. § 216(b).

7 **PRAYER FOR RELIEF**

8 WHEREFORE, Plaintiff requests judgment as follows:

9 1. Declare that the Defendant violated the Fair Labor Standards Act  
10 and applicable Oregon law by failing to pay wages as alleged;

11 2. Award of unpaid wages plus interest and liquidated damages under  
12 29 U.S.C. § 216(b);

13 3. Award Plaintiff the cost and fees of maintaining this suit;

14 4. Grant such other relief as this Court deems just and proper.

16 DATED this 15<sup>th</sup> day of November, 2011.

17   
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23 COMPLAINT - 3

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